



**DEPARTMENT OF THE ATTORNEY GENERAL
TAX DIVISION
CHARITIES UNIT**

**ANSWERS TO FREQUENTLY ASKED QUESTIONS ABOUT HAWAII'S CHARITY
REGISTRATION REQUIREMENTS**

These FAQ's cover the following subjects and questions:

- Who is required to register?
- What is a "Charitable Organization" for purposes of the registration law?
- What is the definition of the term "solicit"?
- What is the definition of the term "contribution"?
- How does a Charity register with the Attorney General?
- Does a Charity have to renew its registration?
- What is the due date for a registered charity's submission of its IRS Form 990/990EZ?
- Does a charity have to notify the Attorney General that it obtained an "Application for Extension of Time to File an Exempt Organization Return" form 8868 for its Form 990/990EZ?
- What are the annual fees and how are they calculated?
- How are the annual fees paid to the Attorney General?
- What charities are exempt from the registration requirement?
- Who to contact for more information?

- **Who is required to register?**

Charitable organizations that solicit contributions must register unless they satisfy one of the exemptions in the registration law.

- **What is a “charitable organization” for purposes of the registration law?**

A “**charitable organization**” is any organization that solicits funds in Hawaii that is exempt under section 501(c)(3) of the Internal Revenue Code. A **charitable organization** also includes any person who is or holds itself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that has a tendency to suggest there is a charitable purpose to the solicitation

- **What does "solicit" mean?**

The terms **solicit or solicitation** is very broadly defined in the current law to include any request for money or anything of value for a charitable purpose:

"**solicit**" and "**solicitation**" mean a request directly or indirectly for money, credit, property, financial assistance, or thing of value on the plea or representation that the money, credit, property, financial assistance, or thing of value, or any portion thereof, will be used for a charitable purpose or to benefit a charitable organization. These terms shall include the following:

- (1) Any oral or written request.
- (2) The making of any announcement to any organization for the purpose of further dissemination, including announcements to the press, over the radio or television, or by telephone, telegraph, or facsimile, concerning an appeal or campaign by or for any charitable organization or purpose.
- (3) The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other publication that directly or by implication seeks to obtain public support.
- (4) Where the sale or offer or attempted sale, of any advertisement, advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies, or other tangible item in connection with which any appeal is made for any charitable organization or purpose; or where the name of any charitable organization is used or referred to in any appeal as an inducement or reason for making any sale; or where in connection with any sale, any statement is made that the whole or any part of the proceeds from any sale will be used for any charitable purpose or to benefit any charitable organization.
- (5) A request made through the use of receptacles for contributions such as honor boxes, vending machines, wishing wells, contribution boxes, and novelty

machines, where a charitable appeal is used or referred to or implied as an inducement or reason to contribute.

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- **What is a "contribution" and does it include grants from government agencies, foundation grants, and dues from members?**

The term "**contribution**" is defined as follows:

"the promise or grant of any money or property of any kind or value, including the promise to pay, except payments by members of a charitable organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the charitable organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from any governmental authority, or a grant or subsidy from any organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Thus, a grant received from the government, or another 501(c)(3) charity or private foundation is not a contribution. Nor are membership dues and assessments.

- **How Does a Charity Register with the Attorney General?**

Hawaii is using an Internet based registration system for charities to complete and submit their registration statement (URS) and to file annual financial reports. Here is a link to the Hawaii registration site. <http://efile.form990.org/frmNPParticipatingStateSCOHL.asp>

Users will need to obtain a logon and password from this site and then return to complete and submit the registration data. (The registration statement is 22 questions and requires 2 officers to electronically sign). The registration site will also allow professional advisors to complete the registration statement and other forms for that charity.

We highly recommend that you review the online tutorial before starting the registration process—it will answer many questions and simplify your registration process:

<http://efile.form990.org/FileSys/Download/HawaiiTutorial.pdf>

- **Does a Charity Have to Annually Renew its Registration?**

No, in Hawaii, charities do not renew their registration statement (URS), rather they update the registration through the submission of annual financial reports.

- (1) The law provides that charities must annually submit their IRS Form 990 or 990EZ when it is due with the IRS.
- (2) The law requires submission of an audited financial statement if the charity has over \$500,000 in **gross revenues**, or where the charity prepares and audited financial statement pursuant to a requirement by a governmental authority or third party. **Gross**

revenues do not include grants from governmental authorities of funds held in trust by the organization.

- **When is the deadline for a registered charity to submit its IRS Form 990/990EZ to the Attorney General?**

Each registered charity will submit its Form 990 or Form 990EZ to the Attorney General on or before the filing deadline with the Internal Revenue Service (including authorized extensions). The filing deadline for Form 990 or 990-EZ is "the 15th day of the 5th month after [an] organization's accounting period ends." Thus, if a nonprofit's fiscal year ends on December 31, its 990 will be due May 15 of that following year. If the fiscal year ends on June 30, the Form 990 due date is November 15. A nonprofit can get an automatic three-month extension by submitting Form 8868 to the IRS. The organization often can get another three-month extension by submitting a second Form 8868.

Thus, a nonprofit can legitimately file its Form 990 with the IRS (and the Hawaii Attorney General) 11 months after its fiscal year ends:

Accounting Period	990 Due Date	Due Date with 1 Extension	Due Date with 2 Extensions
1/1/208 to 12/31/2008	5/15/09	8/15/09	11/15/09
7/1/2007 to 6/30/2008	11/15/08	2/15/09	5/15/09

- **Does a registered charity have to notify the Attorney General that it obtained an extension of time to file its IRS Form 990/990EZ?**

Yes, a registered charity must send a copy of its approved IRS extension of time to file to the Attorney General to: Charities Unit, Tax Division, Department of the Attorney General, 425 Queen Street, Honolulu HI 96813

- **What are the Annual Fees and How are they Calculated?**

The law requires each registered charity to pay an annual fee based on the charities' annual ***gross revenue*** (lines 12 and 9 of the Form 990/990EZ, respectively):

Annual Gross Revenue	Annual Fee
Less than \$25,000	\$10.00
\$25,000 but less than \$50,000	\$25.00
\$50,000 but less than \$100,000	\$50.00
\$100,000 but less than \$250,000	\$100.00
\$250,000 but less than \$500,000	\$150.00
\$500,000 but less than \$1 million	\$200.00
\$1 million but less than \$2 million	\$250.00
\$2 million but less than \$5 million	\$350.00
\$5 million and over	\$600.00

These fees are used to support personnel positions needed to administer and enforce the registration law, investigate fraudulent solicitations and to make the registration data and other filings available to the public and publicly searchable.

- **How are the annual fees paid to the Attorney General?**

After each registered charity submits its annual financial report, the registration system will generate an e-mail to the charity directing it to a State of Hawaii Internet site to complete the payment of their annual fees by credit card or electronic check. The Hawaii Payment Processing site URL is <http://ag.ehawaii.gov/charity/fein.html>.

- **What Charities are exempt from the registration requirement?**

The following charitable organizations are exempt from the registration requirements:

- (1) A duly organized religious corporation, institution or society that is exempt from filing Form 990 with the Internal Revenue Service under IRC §§6033(a)(3)(A)(i) and (iii) and 6033(a)(3)(C)(i).
- (2) A parent-teacher association.
- (3) An educational institution that is licensed or accredited by any of the following organizations:
 - a. Hawaii Council of Private Schools
 - b. Hawaii Association of Independent Schools
 - c. Western Association of Schools and Colleges
 - d. Middle States Association of Colleges and Schools

- e. New England Association of Schools and Colleges
 - f. North Central Association of Schools and Colleges
 - g. Northwest Association of Schools and Colleges
 - h. Southern Association of Schools and Colleges
 - i. The National Association for the Education of Young Children
- (4) An organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code that has an established identity with and expressly authorized by one of the foregoing accredited educational institutions. **Note: This exemption applies only to organizations that primarily solicit contributions from parents, alumni, students and faculty of the educational institution.**
- (5) A nonprofit hospital licensed by the State or any similar provision of the laws of any other state.
- (6) A corporation established by act of Congress that is required by federal law to submit to Congress annual reports, fully audited by the United States Department of Defense, of its activities.
- (7) An agency of Hawaii, another state or the federal government.
- (8) A charitable organization that normally receives less than \$25,000 in contributions annually, if the organization does not compensate any professional solicitor or professional fundraising counsel.

- **Who to contact for more information?**

Department of the Attorney General
Tax Division/Charities Unit
425 Queen Street
Honolulu, HI 96813

Phone: (808) 586-1470

Facsimile: (808) 586-8116

Website: www.hawaii.gov/ag/charities

Email: hawaiiag/AG/StateHiUS